



# Public Employees for Environmental Responsibility

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March 11, 2020

Dear FOIA Officer:

Pursuant to the Freedom of Information Act, 5 U.S.C. 552, as amended, Public Employees for Environmental Responsibility (“PEER”), requests certain information from the U.S. Environmental Protection Agency (“EPA”) regarding certain information regarding per- and polyfluoroalkyl substances (“PFAS”) and EPA’s interactive map created to provide the public with information on potential PFAS sources and occurrence, per the PFAS Action Plan.

On February 14, 2019, EPA issued “EPA’s Per- and Polyfluoroalkyl Substances (PFAS) Action Plan.”<sup>1</sup> In the Action Plan, EPA explained that

Many stakeholders have questioned the extent and magnitude of PFAS contamination across the United States. To help fill these information gaps, the EPA intends to compile baseline, publicly available, PFAS environmental data into a visual map. Mapping tools can be used to show known or potential PFAS contamination sources and related information. The EPA may also specify sites of interest to environmental monitoring, such as wildlife refuges and fisheries, as well as additional impacted environmental media (for example, air or soil). These efforts can be used to help assess environmental trends in PFAS concentrations and serve as one source of information for local and regional authorities.<sup>2</sup>

To respond to these concerns, EPA stated at page 5 of the Action Plan, under a section titled “Identifying and Addressing PFAS Exposures,” that it would “Partner with ECOS to build an interactive map to provide users with easy access to publicly available data on potential PFAS sources and occurrence.” EPA anticipated in the Action Plan that the map would be completed and implemented in 2019.

On information and belief, work progressed on the map identified in the Action Plan under the name **National PFAS Data Explorer**. PEER has a strong interest in the timely development and

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<sup>1</sup> See <https://www.epa.gov/pfas/epas-pfas-action-plan>.

<sup>2</sup>

See

[https://www.epa.gov/sites/production/files/2019-02/documents/pfas\\_action\\_plan\\_021319\\_508compliant\\_1.pdf](https://www.epa.gov/sites/production/files/2019-02/documents/pfas_action_plan_021319_508compliant_1.pdf), at page 31.

availability of such an important national tool and EPA's implementation of the steps outlined in the Action Plan.

## **Requests**

PEER requests the following information, records, and communications:

1. Timelines for release of the National PFAS Data Explorer;
2. Records and communications relating to the readiness of the National PFAS Data Explorer; and
3. Communications concerning the timing of the release of the National PFAS Data Explorer.

“National PFAS Data Explorer,” as used in this request, refers to the “interactive map to provide users with easy access to publicly available data on potential PFAS sources and occurrence” referenced above in the PFAS Action Plan, and search terms used by the FOIA Office should include any shorthand or technical language which is regularly used to refer to that map.

This FOIA seeks proposed and final timelines and information about proposed and final timelines for the National PFAS Data Explorer, information regarding timeline delays for the release of the National PFAS Data Explorer, and information regarding any issues that may have caused a delay to the release of the National PFAS Data Explorer.

## **Custodians**

This request is limited to materials held by the following offices:

- Office of Research and Development
- Office of Water
- Office of the Administrator
- Office of Chemical Safety and Pollution Prevention (OCSPP)

## **Scope of Request**

This request is limited to records and information generated between January 1, 2019, and the date of this request.

This request does not seek any documents currently available on the EPA PFAS Action Plan website. For any records responsive to this request which are currently available on a public-facing website, PEER does not request that those materials be reproduced in full if they can be adequately referenced by inclusion of a URL in the response letter.

This request includes all final documents that have ever been within the agency's custody or control, whether they exist in agency "working," investigative, retired, electronic mail, or other files currently or at any other time. All electronic records should be delivered in their original file format with metadata and any attachments included. Physical records should be scanned or otherwise converted into electronic format.

Responsive records should include electronic messages (including email, texts, chats, and instant messaging via Google, iMessage, WhatsApp, Facebook, Slack, Microsoft Teams, Skype, and any similar services) stored on any desktop, laptop, tablet, server, commercial document sharing service (Microsoft Teams or OneDrive) or mobile device, as well as handwritten materials, if they have not been digitized. Please also provide all attachments or linked materials if they are in the agency's possession or control.

For electronic records, please provide all records in their native file formats (i.e. not converted to PDF) with all metadata included, and for records such as emails which have files embedded or attached, please provide all attachments in their native formats. For instant messages, plain text is acceptable consistent with guidance issued by the National Archives and Records Administration.<sup>3</sup>

For any documents or portions of documents that you block release due to specific exemption(s) from the requirements of the Freedom of Information Act, please provide an index itemizing and describing the documents or portions of documents withheld. The index should, pursuant to the holding of Vaughn v. Rosen (484 F.2d 820 [D.C. Cir. 1973] cert. denied, 415 U.S. 977 [1974]), provide a detailed justification for claiming a particular exemption that explains why each such exemption applies to the document or portion of a document withheld

### **Fee Waiver Request**

PEER requests that all fees be waived because "disclosure of the information is in the public interest . . . and is not primarily in the commercial interest of the requestor" (5 U.S.C. 552 (a) (4)(A)):

1. The records concern the operations or activities of the Government.

The FOIA request is, by its terms, limited to identifiable activities of EPA, specifically information regarding the National PFAS Data Explorer, created pursuant to EPA's Per- and Polyfluoroalkyl Substances (PFAS) Action Plan.

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<sup>3</sup> See NARA, *Frequently Asked Questions about Instant Messaging* (October 10, 2016), <https://www.archives.gov/records-mgmt/initiatives/im-faq.html>

2. The disclosure of the requested records is likely to contribute to public understanding of these operations or activities.

There is growing public concern caused by PFAS contamination in water supplies and in the environment. Among those concerns is a lack of public knowledge about PFAS sources and already present contamination. EPA released a Per- and Polyfluoroalkyl Substances (PFAS) Action Plan in which it stated that to “[u]nderstand sources and concentrations of PFAS in the environment,” EPA would “[p]artner with ECOS to build an interactive map to provide users with easy access to publicly available data on potential PFAS sources and occurrence.” The purpose of this action would be to “[e]nable states, tribes, and communities to use the best available data to guide PFAS management decisions,” and the anticipated timeframe for this EPA action was 2019. Finding out EPA’s timelines regarding this interactive map, otherwise known as the National PFAS Data Explorer, will help contribute to the public’s understanding of the dangers of PFAS, as well as its potential sources and occurrence.

3. The release of these requested records will contribute significantly to public understanding of the governmental activities.

The nature of the information should allow the public to see what the timeline is for EPA to release the National PFAS Data Explorer, as well as any issues or delays that have prevented the National PFAS Data Explorer from being released. The interactive map was projected to be released in 2019. We are now well into 2020 and the interactive map has yet to be released to the public. Further, neither an alert to the public regarding any delays, nor an updated timeline has been released to give the public any indication of when it can expect a future release. The information requested will provide the public with any information EPA has regarding an expected future release of the National PFAS Data Explorer, as well as information regarding its delay.

PEER intends to provide the requested information to members of Congress and its relevant committees. We also intend to disseminate it to the general public through —

- Release to the news media;
- Posting on the PEER web page which draws between 1,000 and 10,000 viewers per day; and
- Publication in the PEER newsletter that has a circulation of approximately 20,000, including 1,500 environmental journalists.

Through these methods, PEER generates an average of 1.5 mainstream news articles per day. Moreover, extensive media coverage of USGS' actions relative to this species underlines the broad public interest in this material.

4. Disclosure would not serve a commercial interest of the requestor.

Disclosure is in no way connected with any commercial interest of the requestors in that PEER is a nonprofit, nonpartisan public interest organization concerned with upholding the public trust through responsible management of our nation's resources and with supporting professional integrity within public land management and pollution control agencies. To that end, PEER is designated as a tax-exempt organization under section 501 (c)(3) of the Internal Revenue code.

If in the process of conducting a search for records responsive to this request it appears that a large quantity of irrelevant material is being included or further relevant material may not be captured by the specific terms of the request, or any other concerns related to the timeliness or completeness of the response arise, please contact the undersigned at [enugent@peer.org](mailto:enugent@peer.org) or Kevin Bell at [kbell@peer.org](mailto:kbell@peer.org).

If you have any questions about this FOIA request, please contact me at (202) 265-4187 or [enugent@peer.org](mailto:enugent@peer.org). I look forward to receiving the agencies final response within 20 working days.

Cordially,

A handwritten signature in cursive script that reads "Elizabeth Nugent".

Elizabeth Nugent  
Legal Fellow